

## ACT 262

H.B. NO. 557

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 806-73, Hawaii Revised Statutes, is amended to read as follows:

**“§806-73 Duties and powers of probation officers; adult probation records.** A probation officer shall investigate any case referred to the probation officer for investigation by the court in which the probation officer is serving and report thereon to the court. The probation officer shall instruct each defendant placed on probation under the probation officer’s supervision regarding the terms and conditions of the defendant’s probation. The probation officer shall keep informed concerning the conduct and condition of the defendant and shall report thereon to the court and shall use all suitable methods to aid the defendant and to bring about improvement in the defendant’s conduct and condition. The probation officer shall keep such records and perform such other duties as the court may direct.

All records of the [State of Hawaii] Hawaii state adult probation divisions are confidential and are not public records, including but not limited to, all records made by any adult probation officer in the course of performing official duties; provided that such records, or the content of such records, shall be divulged only as follows:

- (1) A copy of any adult probation division case record or of a portion of it, or the case record itself, [shall] may upon request be provided only to an adult probation officer of [the] a [State of Hawaii] Hawaii state adult probation division [which originated the record]; provided that a written summary of the record may be provided upon request [to an adult probation officer of another State of Hawaii adult probation division or to an adult probation officer of a probation department of another state which is providing supervision of a probationer convicted and sentenced by the courts of Hawaii.] to any state or federal criminal justice agency which is providing supervision of a defendant or offender convicted and sentenced by the courts of Hawaii, or which is responsible for the preparation of a report for a court.
- (2) The contents of any adult probation division case record relevant for the purpose of serving a summons or bench warrant in a civil or criminal proceeding or in a deportation proceeding, including, but not limited to, contents indicating the whereabouts or residence of a defendant or offender, may be released only to a state or federal law enforcement agency.
- [(2)] (3) A copy of a presentence report or investigative report shall be provided only to the persons or entities named in section 706-604; to the Hawaii paroling authority; to any psychiatrist, psychologist, or other mental health practitioner who is treating the defendant pursuant to a court order for mental health care; to the intake service centers; in accordance with applicable law[,], to persons or entities doing research; to any Hawaii state adult probation officer or to an adult probation officer of another state [providing supervision of an offender in

Hawaii; or to any adult probation officer providing supervision of an offender in another state if the offender was convicted and sentenced in the courts of Hawaii.] who is engaged in the supervision of a defendant or offender convicted and sentenced in the courts of Hawaii, or which is engaged in the preparation of a report for a court regarding a defendant or offender convicted and sentenced in the courts of Hawaii. [Any persons or entities not entitled pursuant to this section or pursuant to section 706-604 to receive a copy of a presentence report are not entitled to receive a summary of a report and are not entitled to view a report.]

Every probation officer shall, within the scope of the probation officer's duties, have the powers of a police officer."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1989.)